

Why Try Mediation?

- You have a chance to present your ideas in an informal, private setting, with the support and advice of your lawyer if you have one. It is a time to be heard and to listen to others.
- You have an opportunity to control the outcome of your dispute.
- The mediator is impartial and trained to help you talk about your needs and differences so that you can work things out yourselves.
- You may discover choices you did not know you had.
- Mediation may help you improve communication and find new ways to deal with your differences.
- Mediation may help you reach an agreement that will let you get on with your life and possibly keep you out of court in the future.
- You make the decisions in mediation and you are under no obligation to reach an agreement. You do not give up your right to file a lawsuit within the time allowed by law.

Land Use Mediation Program

State of Maine

Judicial Branch

**Court Alternative
Dispute Resolution Service
(CADRES)**

RR 1, Box 310
West Bath, Maine 04530-9704
Tel. 207-442-0227
Fax. 207-442-0228

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Background and Purpose

In 1995, the Maine Legislature enacted a law, 5 M.R.S.A. § 3341, creating the land use mediation program. Its purpose is to provide eligible private landowners with a "prompt, independent, inexpensive and local forum for mediation of governmental land use actions as an alternative to court action."

The Court Alternative Dispute Resolution Service (CADRES) of the State of Maine Judicial Branch has selected a group of qualified, experienced mediators from all around the State to mediate land use disputes.

How Much Does It Cost?

The application fee for land use mediation is \$175.00 for up to four (4) hours of mediation. There is no additional court filing fee.

After the initial fee is paid, the cost of further mediation may be shared by the other mediation participants.

The landowner also pays the cost of sending the notice about the mediation to the people who will participate.

Who Can Mediate?

- private landowners
- municipalities
- state agencies and boards

Mediation must be initiated by a private landowner.

To be eligible for mediation, the landowner must have suffered "significant harm as a result of a governmental action regulating land use."

The landowner must also request mediation in a timely manner during the period when the governmental action could have been reviewed by a judge.

The landowner must have either:

- sought and failed to obtain a permit, variance or special exception from a municipality, or
- sought and failed to obtain approval for a land use from a state agency.

Municipalities are not required to participate in mediation if they choose not to do so. State entities must participate.

How Does It Work?

■ The landowner applies for mediation and pays the fee at the Superior Court for the county where the land is located.

■ The Clerk of Court sends the landowner's application for mediation to CADRES.

■ The Director of CADRES contacts the landowner and the governmental entity to help select a mediator and decide who will participate in mediation.

■ The mediator schedules the time and place for mediation with the parties, and the mediator or CADRES sends out the notice of mediation.

■ If an agreement is reached, it must be put in writing and signed. A copy of the mediated agreement is later submitted to the court with the mediator's report.

■ If no agreement is reached, the landowner may decide what other action to take, including litigation or other steps.

■ Conduct and statements made during mediation are confidential for most purposes. The land use mediation law calls for the written agreement to be included in the court's file.

■ Even if you try mediating first, you can still litigate. Applying for mediation may extend the time for filing a lawsuit up to 120 days.